

Federal Communications Commission

DA 03-2689

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.606(b),
Table of Allotments,
Television Broadcast Stations.
(Bay City, Michigan)

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MM Docket No. 01-84
RM-10067

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 18, 2003

Released: August 25, 2003

By the Chief, Video Division:

1. At the request of Vista Communications, Inc. and Pelican Broadcasting Company, Inc. ("petitioners"), mutually exclusive applicants for a construction permit for a new television station to operate on channel 61+ at Bay City, the Commission has before it the Notice of Proposed Rule Making, 16 FCC Rcd 7796 (2001), proposing the substitution of channel 46 for channel 61+.¹ The petitioners filed comments indicating that Vista will amend its application to specify operation on channel 46.² No other parties filed comments.

2. We believe the public interest would be served by substituting channel 46 for channel 61+ since adoption of this proposal will permit Vista Communications to operate a channel below the 746-806 MHz band (television channels 60-69). A staff engineering analysis indicates that channel 46 can be allotted to Bay City with a plus offset consistent with the Commission's domestic spacing requirements. However, the allotment of channel 46 does not provide protection to the DTV channel 46 allotments at Sarnia, Hanover and Straford, Ontario. Nevertheless, Canadian concurrence in the allotment of channel 46+, as a specially negotiated allotment, has been received since we have confirmed that Vista Communications could limit its power in the direction of Sarnia, Hanover and Straford to avoid prohibited overlap.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 9, 2003, the TV

¹ The petitioners filed their petition pursuant to the provisions outlined in the Commission's Public Notice ("Public Notice") released on November 22, 1999, DA 99-2605. In that, *Public Notice* the Commission announced a window filing opportunity to allow persons with certain pending requests for new analog (NTSC) television stations to modify their requests to eliminate technical conflicts with digital television (DTV) stations and to move from channels 60 through 69. The petitioners filed their petition for rule making seeking a channel below channel 60.

² On July 17, 2000, Pelican and Vista filed a Joint Request with the Commission for approval of a settlement agreement to resolve the conflict between their applications by the dismissal of Pelican's application and the grant of Vista's application.

Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows

<u>City</u>	<u>Channel No.</u>
Bay City, Michigan	5-, 46+

4. IT IS FURTHER ORDERED, That within 45 days of the effective date of this Order, Vista Communications, Inc. shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying TV Channel 46+ in lieu of TV Channel 61+ at Bay City, Michigan.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6 For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau